

No. 84362-7

SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Defendant/Appellant,

v.

MATHEW & STEPHANIE McCLEARY, on their own behalf and on behalf of
Kelsey & Carter McCleary, their two children in Washington's public schools;

ROBERT & PATTY VENEMA, on their own behalf and on behalf of Halie &
Robbie Venema, their two children in Washington's public schools; and

NETWORK FOR EXCELLENCE IN WASHINGTON SCHOOLS ("NEWS"), a
state-wide coalition of community groups, public school districts, and education
organizations,

Plaintiffs/Respondents.

**PLAINTIFF/RESPONDENTS'
CONSOLIDATED RESPONSE
TO AMICUS MOTIONS**

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This is plaintiffs' consolidated response to the amicus motions filed in this case.¹ Those motions were filed by five types of movants:

- civil rights organizations (i.e., the amicus motion on behalf of NAACP, United Indians of All Tribes Foundation, etc.²).
- public school parents/families (i.e., the Washington's Paramount Duty group that "consists primarily of parents"³ and the Arc group of families/etc. with respect to students "with intellectual and developmental disabilities"⁴).
- public school employees (i.e., the group representing "approximately 31,000 'classified' public school employees" in Washington⁵).
- public school districts (i.e., the "Alliance" group of seven school districts⁶ and three individual school districts⁷).
- persons concerned about what happens to property taxes in 2022 (i.e., the Budget & Policy Center ("BPC") group that requests leave to file an amicus brief addressing EHB 2242's reinstatement of RCW 84.55's state property tax limitation in 2022⁸).

¹ *The Plaintiff/Respondents ("plaintiffs") file their response today because this Court's July 25, 2017 Order specified that "any objections to motions to file amicus briefs shall be filed and served by August 23, 2017."*

² *Civil Rights Organizations' Motion For To File Amicus Curiae Brief at pp.1-4.*

³ *Motion For Leave To File Brief On Behalf Of Amicus Curiae Washington's Paramount Duty at p.2.*

⁴ *Motion For Leave To File Amicus Brief By The Arc Of King County, et al. at p.1.*

⁵ *Motion For Leave To File Amicus Brief By The Public School Employees Of Washington at p.2.*

⁶ *The School Alliance's Motion For Leave To File Amicus Curiae Brief at pp.1-2.*

⁷ *Motion For Leave To File Brief Of Amicus Curiae Tacoma Public Schools at p.1; Motion For Leave To File Brief Of Amicus Curiae Seattle Public Schools at p.1; Motion For Leave To File Brief Of Amicus Curiae Northshore School District at p.1.*

⁸ *Motion By Washington State Budget And Policy Center, et al. For Leave To File Amicus Curiae Brief at p.5 (requesting "leave to file an amicus brief addressing whether EHB 2242's restatement of the state property tax limitation in RCW 84.55 starting in 2022 renders the tax sources supporting the McCleary fix as neither regular nor dependable.").*

Since the proposed amicus briefs are not attached to the amicus motions, plaintiffs do not know the specific arguments, claims, and theories the amicus briefs will advance, and thus do not know if plaintiffs will agree or disagree with amici's arguments, claims, and theories.

But plaintiffs must admit that the amicus movants have unique perspectives that are not the same as those of the defendant State or the three plaintiff parties in this case (the McCleary family, Venema family, and non-profit NEWS entity). For example, the State legislature filed its 2017 Report with the State's July 30 brief – but amicus movants include four legislators who want to voice their own individual perspective instead of the collective position taken by the 147-member legislature as a whole.⁹ Or as another example, one of the plaintiff parties (the non-profit NEWS entity) is a state-wide coalition of 440 community groups, public school districts, and education organizations¹⁰ – but amicus movants include some individual members who want to voice their own individual perspective instead of the collective position taken by the 440-member NEWS entity as a whole.

Plaintiffs must also admit that the amicus movants are directly and significantly affected by the outcome of this appellate proceeding in ways

⁹ *Motion By Washington State Budget And Policy Center, et al. For Leave To File Amicus Curiae Brief at pp.2-3.*

¹⁰ <https://waschoolexcellence.org/about/news-members/>

that are not experienced by the defendant State or by the three plaintiff parties in this case (the McCleary family, Venema family, and non-profit NEWS entity). Plaintiffs must accordingly admit that allowing movants to file amicus briefs can materially assist the decision making process in this proceeding.¹¹

Given the above, plaintiffs cannot deny that amicus briefs from the movants can assist this Court in understanding the real world, on-the-ground realities of whether the 2017 legislature complied with the Court orders in this case.

Although plaintiffs' counsel does not relish the thought of reading and addressing additional briefing, and does not agree with the BPC movants' belief that year 2022 is relevant at this time, plaintiffs cannot deny that the movants' motions should be granted. Plaintiffs accordingly do not object to the granting of the amicus motions filed in this case.

¹¹ See also the Task Force Comment to RAP 10.6 noting that "Providing access to the appellate court by those persons or groups who will be significantly affected by the outcome of the issues on review can materially assist the court in the decision-making process").

RESPECTFULLY SUBMITTED this 23rd day of August, 2017.

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s/ Thomas F. Ahearne

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CERTIFICATE OF SERVICE

Laura G. White declares:

I am a citizen of the United States of America and a resident of the State of Washington. I am over the age of twenty-one years. I am not a party to this action, and I am competent to be a witness herein. On August 23, 2017, I caused the foregoing document to be served as follows:

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I further declare that I caused to be transmitted via this Court's web portal upload services a true and correct copy of the foregoing document to the counsel of record registered through the Court's portal in this matter.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

EXECUTED in Seattle, Washington, this 23rd day of August, 2017.

s/ Laura G. White _____
Laura G. White, Legal Assistant

FOSTER PEPPER PLLC

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